

SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: Andrea Masley
JusticePART 48Discover Property & Casualty Company, et al.
Plaintiffs,INDEX NO. 652933/2012

MOTION DATE: _____

v

MOTION SEQ. NO. SUA SPONTENational Football League, et al.
Defendants.

MOTION CAL. NO. _____

WHEREAS this court, by orders dated 10/04/2012 and 10/17/2012, granted the motion of plaintiffs Discovery Property & Casualty Company, St. Paul Protective Insurance Company, Travelers Casualty & Surety Company, and Travelers Property Casualty Company of America (Travelers Plaintiffs), and this action (Index No. 652933/2012) was consolidated with the action bearing Index No. 652813/2012, *Alterra Am. Ins. Co., et al. v National Football League, et al.*; and

WHEREAS consolidation under CPLR 601 (a) of the Travelers Plaintiffs' motions, as granted in the 10/04/2012 and 10/17/2012 orders of this court, resulted in "true" consolidation of the two related actions, causing the captions to merge and only one action and one caption to remain, which is untenable because numerous parties are both plaintiffs and defendants in the same action (*Geneva Temps, Inc. v New World Communities, Inc.*, 24 AD3d 332, 335 [1st Dept 2005] [stating that "true" consolidation is inappropriate where parties become both plaintiffs and defendants to avoid jury confusion]);

Accordingly, it is

ORDERED that the orders of this court in this action, dated 10/04/2012 and 10/17/2012, granting the Travelers Plaintiffs' motion and consolidating the two related actions, are MODIFIED to the extent that the Travelers Plaintiffs' motion (Index No. 652933/2012; Mot. Seq. No. 001) is granted only insofar as the two related actions are consolidated for only the purposes of discovery and trial (see *Five Towns Heart Imaging Med., P.C. v Clear Diagnostic Solutions, Inc.*, 2012 NY Slip Op 32261(U) [Sup Ct, NY County 2012]), and the two related cases shall have joint discovery and joint trial; and it is further

ORDERED that the consolidated action shall bear the following caption:

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE
FOR THE FOLLOWING REASON(S):

NYSCEF DOC. NO. 463

RECEIVED NYSCEF: 04/09/2018

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL PART 48-----X
ALTERRA AMERICA INSURANCE CO.,

Plaintiff,

Action No.: 1

Index No.: 652813/2012

-against-

NATIONAL FOOTBALL LEAGUE, NFL PROPERTIES, LLC,
TIG INSURANCE COMPANY, CENTURY INDEMNITY
COMPANY, CHARTIS PROPERTY CASUALTY COMPANY,
DISCOVER PROPERTY & CASUALTY INSURANCE
COMPANY, FEDERAL INSURANCE COMPANY, GREAT
NORTHERN INSURANCE COMPANY, GUARANTEE
INSURANCE COMPANY, HARTFORD ACCIDENT &
INDEMNITY COMPANY, NORTH RIVER INSURANCE
COMPANY, ONEBEACON AMERICA INSURANCE
COMPANY, UNITED STATES FIRE INSURANCE
COMPANY, ACE AMERICAN INSURANCE COMPANY,
ILLINOIS UNION INSURANCE COMPANY, ALLSTATE
INSURANCE COMPANY, ARROWOOD INDEMNITY
COMPANY, CHARTIS SPECIALTY INSURANCE COMPANY,
CONTINENTAL CASUALTY COMPANY, CONTINENTAL
INSURANCE COMPANY, ILLINOIS NATIONAL INSURANCE
COMPANY, INDEMNITY INSURANCE COMPANY OF NORTH
AMERICA, NATIONAL UNION FIRE INSURANCE COMPANY
OF PITTSBURGH, PA, MUNICH REINSURANCE AMERICA,
INC., NEW ENGLAND REINSURANCE CORPORATION, ST.
PAUL PROTECTIVE INSURANCE COMPANY, TRAVELERS
CASUALTY & SURETY COMPANY, TRAVELERS INDEMNITY
COMPANY, TRAVELERS PROPERTY CASUALTY COMPANY
OF AMERICA, VIGILANT INSURANCE COMPANY,
WESTCHESTER FIRE INSURANCE COMPANY, XL
INSURANCE AMERICA, INC. COMPANIES ABC-XYZ,

NYSCEF DOC. NO. 463
inclusive,

RECEIVED NYSCEF: 04/09/2018

Defendants.

-----X

DISCOVER PROPERTY & CASUALTY COMPANY,
ST. PAUL PROTECTIVE INSURANCE COMPANY,
TRAVELERS CASUALTY & SURETY COMPANY,
TRAVELERS INDEMNITY COMPANY, and
TRAVELERS PROPERTY CASUALTY COMPANY OF
AMERICA,

Plaintiffs,

Action No.: 2

Index No.: 652933/2012

-against-

ALTERRA AMERICA INSURANCE COMPANY,
FIREMAN'S FUND INSURANCE COMPANY, TIG
INSURANCE COMPANY, CENTURY INDEMNITY
COMPANY, FEDERAL INSURANCE COMPANY, GREAT
NORTHERN INSURANCE COMPANY, GUARANTEE
INSURANCE COMPANY, HARTFORD ACCIDENT &
INDEMNITY COMPANY, NORTH RIVER INSURANCE
COMPANY, U.S. FIRE INSURANCE COMPANY, ACE
AMERICAN INSURANCE COMPANY, ILLINOIS UNION
INSURANCE COMPANY, ALLSTATE INSURANCE
COMPANY, AMERICAN GUARANTEE AND LIABILITY
INSURANCE COMPANY, ARROWOOD INDEMNITY,
COMPANY, CHARTIS SPECIALTY INSURANCE COMPANY,
CHARTIS PROPERTY CASUALTY COMPANY, CONTINENTAL
CASUALTY COMPANY, CONTINENTAL INSURANCE
COMPANY, ILLINOIS NATIONAL INSURANCE COMPANY,
MUNICH REINSURANCE AMERICA, INC., NATIONAL UNION
FIRE INSURANCE COMPANY OF PITTSBURGH, PA,
NEW ENGLAND REINSURANCE CORPORATION,
ONEBEACON AMERICA INSURANCE COMPANY, VIGILANT
INSURANCE COMPANY, WESTCHESTER FIRE INSURANCE

NYSCEF DOC. NO. 463

COMPANY, XL INSURANCE AMERICA, INC., and

RECEIVED NYSCEF: 04/09/2018

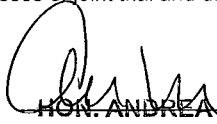
DOE DEFENDANTS I-100,

Defendants.

-----X
And it is further

ORDERED that movants, Travelers Plaintiffs', are directed to serve a copy of this order with notice of entry on the Clerk of the Trial Support Office, Room 158 at 60 Centre Street, New York, NY 10007, who is hereby directed to mark the court's records to reflect the consolidation for the purposes of joint trial and discovery.

Dated: 4/6/18


HON. ANDREA MASLEY

Check one: ☐ FINAL DISPOSITION ☐ NON-FINAL DISPOSITION